

The background of the cover features a close-up, high-angle view of several books and stacks of papers. The books have various colored spines, including blue and black. The pages are mostly off-white or light beige, showing signs of age. The lighting is dramatic, with strong highlights and deep shadows, creating a sense of depth and texture. The books are arranged in a way that suggests a library or a study desk.

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WHITE COLLAR CRIME**Shubham Sharma* and Amrendra Singh***

“Men commit murder and all sorts of mayhem, in a few years they’re back on the streets. Highway robbery and White-collar crime, and they laugh at the system they beat.” -Waylon Jennings

White-collar crimes are commonly known as the crimes of educated professionals. The authors critically analyze the reason behind how this has become a socio-economic crime in India, since the past few years. The author also discusses common types of White - collar crimes mainly focusing on making the readers aware of the difference between White-collar and Blue-collar as well as ordinary crimes. It discusses existing Laws in the Indian legislature to curb these crimes, and its punishment. In the end, the authors would conclude with how these laws can be made more efficient as in contemporary times.

INTRODUCTION

The term and concept of ‘White - Collar Crimes’ was first introduced and placed in criminology in 1941. An American Sociologist Edwin Sutherland first defined this word globally. These described crimes are committed by people of higher status. Meanwhile, Morris in 1934 again, expressed his views that the anti-social activities conducted by people belonging to higher status during their professional hours.¹

DEFINITION

White - Collar Crimes are committed by the educated public majorly belonging to high and elite class groups. These crimes are committed during the course of their occupation and people have a higher knowledge of their occupational practices, technology, and services. These crimes are more common to commerce, trade, education, and health. Also, the crimes are usually non - violent and are financially inclined. It goes unrecognized in the society as the offenders belong to a respected community and are far away from suspicion. They tend to maintain their respect in society until the crime is discovered.

* Mr. Shubham Sharma is a fifth-year undergraduate student pursuing B.A. LL.B. from Lloyd Law College, India.

* Mr. Amrendra Singh is a third-year undergraduate student pursuing B.A. LL. B. from Lloyd Law College, India.

¹ Ricky Chopra, ‘White Collar Crimes in India’ (Slideshare 18 April 2018) <<https://www.slideshare.net/ricky Chopra/white-collarcrimesinindia>> accessed 11 September 2020.

Whether it is health, educational or legal institutions, White-Collar Crimes has its roots in almost every industry. Generally, these could take place through fraud, money laundering, extortion, forgery, counterfeiting, embezzlement, bribery, cybercrime, copyright infringement, identity theft, tax evasion, and many more. Ponzi schemes where returns are generated to the earlier investors with the money fraudulently taken from the later investors and securities fraud such as insider trading add up to the other forms of white-collar crimes. These have been further discussed briefly in this article.

DIFFERENCE BETWEEN BLUE- AND WHITE-COLLAR CRIMES

There is a necessity to formulate change in respect to criminology to differentiate between White-collar and Blue-collar crimes. E.H. Sutherland, 1940 in his detailed study on the concept of White-collar crimes, said that the upper socio-economic groups committed these crimes by breaching the trust of society.² These appear different from ordinary or traditional crimes to which he termed as 'Blue-Collar Crimes'.

Over the years, there is now a comprehensible distinction between these two. White-collar criminals are well structured and executed with all essential resources needed. These are committed out of greed without any personal disputes and, are not violent in nature. Whereas when we talk about blue-collar criminals, these are committed because of personal reasons and it involves violence. The economic loss through White-collar crimes are much higher than the blue-collar crimes.

A distinction was made between these crimes by the Hon'ble Supreme Court of India through the case of "*Mohanlal Jitmalji Powar and Anr. v State of Gujarat 1987*".³ Justice Thakker opined that 'one person can murder another person in the heat of the moment despite having personal reasons to do so, but committing white-collar crimes requires a lot of planning to cause financial and economic loss.

WHY DOES WHITE-COLLAR CRIMES NEED ATTENTION IN THE SOCIETY?

The damages of White-collar Crimes are not just limited to criminals. When these crimes are committed, huge losses on business are barred by the consumer and society. These are termed as socio-economic crimes since it has a direct impact on society. In the past few years, many scams are

² Edwin H Sutherland, 'White - Collar Criminality' (American Sociological review, February 1940) <[https://www.asanet.org/sites/default/files/savvy/images/asa/docs/pdf/1939%20Presidential%20Address%20\(Edwin%20Sutherland\).pdf](https://www.asanet.org/sites/default/files/savvy/images/asa/docs/pdf/1939%20Presidential%20Address%20(Edwin%20Sutherland).pdf)> accessed 07 September 2020.

³ *Mohanlal Jitmalji Powar and Anr. v State of Gujarat AIR 1987 SC 1321.*

unfolded that resulted in the downfall of the economy. Some of them include Fodder scam, 2G Scam, Havala Scam, and Banking Scam, also known as Economic crimes.⁴

FORMS OF WHITE - COLLAR CRIMES

The following crimes are covered by the Indian legislature as White-collar crimes and the punishments were discussed later:

Bank fraud: Banking fraud is a fraud against a banking institution which is defined as unethical/criminal activities by an individual in an attempt to possess money from the bank. These are committed through Credit Card fraud, cheque fraud, identity theft, etc.

Bankruptcy fraud: These frauds include intentionally omitting the required information when filling out for bankruptcy or use the bankruptcy process to prevent creditors from receiving money that they are entitled to.

Cyber Crime: Cyber threats are criminal offences against any individual, group of individuals, or organization with a criminal motive to harm the victim physically, mentally, or their reputation using modern communication primarily through a computer, or a networked device, or network. The computer may be used as a medium to commit the offence, or it is the one targeted to disable or damage the computer intentionally.

Counterfeiting: This theft is commonly known as 'intellectual property theft'. This involves manufacturing and distributing goods in someone else's name.⁵

Corruption: It is the massive abuse of power by the people occupying the authoritative position. To get the work done, this process involves offering, attempt to offer, accepting, and asking bribes. Sometimes, the bribes are offered to help in planning, execution or masking of the illegal activities.

⁴ Deepa Mehta, 'Economic Crime in a Globalizing Society: Its Impact on the Sound Development of the State- An Indian Perspective' (126th International Senior Seminar Visiting Experts' Paper) <https://www.unafei.or.jp/publications/pdf/RS_No66/No66_10VE_Mehta1.pdf> accessed 11 September 2020.

⁵ International Anticounterfeiting Coalition, 'Counterfeiting costs everyone', (IACC) <<https://www.iacc.org/resources/about/what-is-counterfeiting>> Accessed on 11 September 2020.

Embezzlement: Also known as employee theft, which involves acquiring money that they have been entrusted with, which is owned by someone else. Employees usually commit these with fiduciary relationships.⁶

Insurance Fraud: Insurance fraud is exploitation of insurance contracts. It includes selling policies from non-existing companies, churning policies to receive more commission, buyers generally exploiting claims to get more insurance money, faking death, kidnapping, etc.

Forgery: Forgery involves a false document, signature in order to deceive another. It is charged under fraud in IPC.⁷

Insider trading: It's a term used for malpractice in trading stock or other securities with knowledge of confidential information about Import Act events that is unavailable to the general public which is needed to make investment decisions.

Email phishing: Phishing is a process to fool people to take their money. Phishing is done through spoofing or messaging. Where a person receives a mail or message in the name of any financial institution asking for their account details, i.e. their password and other information and when they enter this information, they copy all the details and take their money.

Antitrust violation: Monopolization of businesses includes illegal and abusive practices of price-fixing and discrimination, and restraints constitute to Antitrust violations.⁸

Tax Evasion: Evading tax is done with an intention to hide the money obtained from the illegal sources so that one can reduce their liability to pay tax and show low income to the tax authorities

Money laundering: Money laundering is a well-known process of making a large amount of money obtained through criminal activity, or moreover through illegal means appear to have come through a legitimate source. The process involves placement, layering, and integration. Over the years, offenders

⁶ FBI, 'What we Investigate – White – Collar crimes' (FBI)<<https://www.fbi.gov/investigate/white-collar-crime>> accessed 07 September, 2020.

⁷ Indian Penal Code, 1860 s 471.

⁸ Erric Schmitt, 'Antitrust Laws' (Office of the Missouri Attorney General) <<https://ago.mo.gov/civil-division/consumer/antitrust-laws/antitrust-violations#:~:text=The%20most%20common%20antitrust%20violations,would%20also%20violate%20antitrust%20laws.>> Accessed on 11 September 2020.

have invented many ways to launder money laundering through complex techniques to avoid being caught.⁹

Extortion: A practice well known for obtaining money, valuable object, property, and so on through the use of force or threat.¹⁰

The abovementioned crimes are well-organized crimes. these need proper planning and structure so that it will be unlikely to be discovered by the ordinary people. These also need the latest technology and a sharp mind to be executed.

WHITE-COLLAR CRIMES IN INDIA

The world with ultra - modern technology has been acting as the catalyst to the rapid increase of the existence of White-Collar Crimes in our country. The recent technological advancements have facilitated the growth of cybercrimes. Various institutions including banking, finance, industry, businesses and many more are broadly affected by such crimes. It generally encompasses a variety of nonviolent crimes committed for financial gain in commercial institutions.

Over the years, criminology has found the White-Collar Crimes to have embedded their roots in every profession. Some significant forms of white-collar crimes in a different profession are listed below:

a)**Medical Profession:** Crime in the health care sectors is committed by health care providers, companies providing services for medicines, and essential medical equipment. These include billing for services that were never rendered, upcoding, charging for unnecessary tests, forging medical records, and issuing false medical certificates.

A trend of increased participation of criminal groups in the health care professionals to smuggle drugs and organ trafficking. Scandals such as Enron, WorldCom, and Adelphi have received public attention and highlighted white-collar crimes in the medical profession.¹¹

b)**Education:** Imparting knowledge is considered as one of the noble professions. Unfortunately, we have witnessed white-collar crimes in very top educational institutions, especially engineering and medical colleges. Many big scams reveal yearlong abuse of power. These

⁹ FindLaw Team, 'White Collar Crime', (Findlaw, 14 March 2019) <<https://criminal.findlaw.com/criminal-charges/white-collar-crime.html>> Accessed on 11 September 2020.

¹⁰ Indian Penal Code, 1860, s 383.

¹¹ G Nagarjan and Dr. J Khaja Sherrif, 'White Collar Crimes in India', (2012) 1(9) IRJ <<http://indianresearchjournals.com/pdf/IJSSIR/2012/September/16.pdf>> accessed 07 September 2020.

crimes included obtaining a huge amount of money in the name of donations to obtain admissions, scholarship scams, and selling of children's food for cash provided by the State Government under midday meal scheme and other like issues.

Many institutions work as commercial shops where they provide degrees in exchange for a considerable amount of money. The staff is unqualified and underpaid in many private institutions who fear reporting exploitation in fear of losing jobs.¹²

c) Legal Profession: Legal practitioners while representing their clients tend to fabricate false evidence, concealing evidences, engaging false witness, violate ethical standards of the legal profession and dilatory tactics in collusion with the court staff are some of the well-known practices in the legal industry. These give the case an unexpected turn where the accused walks free and the innocent are behind bars.¹³

In the case of *Jacob Mathew v/s State of Punjab*¹⁴ the Supreme court held two conditions which if, satisfied would hold the profession liable for negligence:

- i. If the offender did not have the required skill needed for the profession, and
- ii. If he had the required skills, he did not exercise them.

d) Engineering Profession: The engineering profession is a vast industry that deals with major contractors and suppliers, building and restructuring- These professions witnesses malpractices like providing substandard works and materials and not maintaining records. Human lives are at stake when sub-standardized materials are used to build bridges, apartments which have insufficient sustaining power.

e) Business: White Collar crimes are associated with business professionals who commit their crimes during their employment. They usually get involved in illegal contracts, the infringement of trademarks, patents and copyrights, deceptive practices such as offering and accepting bribes, etc. These businesses, involving in a huge amount of exchange of money, are being owned by big businessmen and tycoons, such crimes are common among them.

f) Society: White Collar crimes are not something unknown to the common people. Individuals, irrespective of their classes, middle – class individuals also engage in such crimes by being co-conspirator or accomplice. Example- often, individuals conceal their real income so that they

¹² Prof. N.V. Paranjpe, "Criminology and Penology", (15h Edition 2011) Chapter 9.

¹³ G Nagarjan and Dr. J Khaja Sherrif, 'White Collar Crimes in India', (2012) 1(9) IRJ <<http://indianresearchjournals.com/pdf/IJSSIR/2012/September/16.pdf>> accessed 07 September 2020.

¹⁴ *Jacob Mathew v/s State of Punjab* (2005) 6 SCC 1.

do not have to pay a higher amount of income tax, which is against the tax payment policies and is referred to as tax evasion. The tax evaders are punished with huge fines and/or imprisonment.

REASONS OF THESE CRIMES

The motives behind the commission of white-collar crimes primarily are the wish for control in society, fear and anxiety of dwindling from the social status, lack of social consciousness and integrity, weak and ineffective and ineffectual corporate culture in economy.

- i. **Access to sensitive information:** Some of these crimes need access to personal information which allows the offenders to structure their execution in an easier way. With the increase in technology and the professions can have access to the sensitive information required for the crime.¹⁵
- ii. **Greed :** The more you earn, there is more greed to make more and more. Elite class professionals are financially stable; however, the human nature of greed for earning more and more without having to work hard drives these individuals to commit these crimes. And for this purpose, they indulge in unethical and illegal activities to gain financial benefits.
- iii. **Prolong effect:** The evolution of technology in the era of the internet marks for global connectivity. It makes it easier to harm and cause loss to other people/organizations in competition. While aiming for monopolization in the market or making a statement that one is best in business, professionals try to eliminate their competition by hurting their competition's profits. The victim would take a long time to recover from these losses, thus, eliminating competitions for a considerable amount of time.
- iv. **Competition:** Charles Darwin, in his theory of 'evolution', has mentioned the concept of "survival of the fittest". In the contemporary world, individuals have now considered this theory and thus an increasing competition has led people to indulge in unethical and illegal activities to survive in the competition. Similarly, some people in order to achieve a higher position, power and money commit crimes.¹⁶

¹⁵ Indian National Bar Association, 'White Collar Crime Survey' (INBA, November 2019) <<https://www.indianbarassociation.org/wp-content/uploads/2020/01/White-Collar-Crime-Survey-2019.pdf>> accessed 07 September 2020.

¹⁶ Ricky Chopra, 'White Collar Crimes in India' (Slideshare, 18 April 2018) <<https://www.slideshare.net/ricky Chopra/white-collarcrimesinindia>> accessed 11 September 2020.

- v. **No fixed law or punishment:** As a high social class, people commit these crimes in a very organized and structured execution; White-collar crimes take a lot of time to be discovered. The whole society is at stake with these crimes. In many cases, because of the strong political connection, most of the offenders firstly dodge being caught and secondly, skip punishment if caught due to lack of evidence. Most of the offences are difficult to prove as there are no witnesses as such offences are committed with precision and among few known and ‘trusted’ people.¹⁷
- The Legislature is weak as the lawmakers and the offenders belong to the same class. Judiciary is criticized for delivering their judgments late.
- vi. **Lack of Awareness :** It is not common for many of us to know every detail about white-collar crimes as compared to the contemporary ones such as robbery, murder, kidnapping. It goes unnoticed due to a lack of knowledge about these crimes.

CASE STUDY – “THE SATYAM SCANDAL”

The biggest corporate accounting fraud in India *Union of India v. Satyam computer service ltd. (2009)*¹⁸ popularly known as the “Satyam scandal” came into a highlight on January 7, 2009, when B. Ramalingam Raju (The Founder and Chairman of Satyam computers services ltd.) confessed to the reporters of Times of India about manipulating his financial records. He did so by exaggerating the assets and understating obligations.¹⁹ The company’s financial standing is shown in its books of accounts. They play an important role as the investors can rely upon the books of accounts before investing their money. The financial records were manipulated to keep the investors and shareholders in a loop in order to cheat them. The whole scam cost the investors and the shareholders of the losses of approximately ₹14,000 crores and is considered to be the reason for the recession in 2009. In this scandal, Mr. Ramalinga Raju and other nine major accomplice of the company were found guilty of insider trading, indulging in fraudulent and unfair trade practices by the SEBI, and as a result, directed them to pay approximately ₹2000 crores within forty-five days. The SEBI, while making sure that

¹⁷ Subodh Asthana, ‘White Collar Crimes in India’ (Ipleaders, July 31 2019) <<https://blog.ipleaders.in/white-collar-crimes/>> accessed 11 September 2020.

¹⁸ *Union of India v. Satyam computer service ltd. 2009 (96) SCL 367.*

¹⁹ Business FP Staff, ‘This letter Ramalinga Raju wrote uncovered the Rs. 4,676 cr Satyam Scam, First Post (India, 10 April 2015).

such a scam never happened again, debarred them from accessing the security markets for the next 14 years.²⁰

LAWS REGARDING WHITE-COLLAR CRIMES IN INDIA

The government of India has laid down regulatory legislation to punish white-collar criminals. Some of these legislations include the Foreign Exchange Regulation Act 1973, the Companies Act 1956, the Prevention of Money Laundering Act 2002, The Import and Exports (Control) Act 1947, the Essential Commodities Act 1955, and The Industrial (Development and Regulation) Act 1951. To keep in check for crimes such as Bank Fraud, Insurance fraud, credit card fraud, etc., provisions are laid down in the Indian Penal Code, 1860.

Several actions have been taken by the government of India to tackle Money laundering offences. The Reserve Bank of India has issued KYC (Know Your Customer) guidelines to all the banks in India which needed to be followed strictly.²¹ The banks and financial institutions are required to maintain records of transactions for ten years. To tackle cybercrimes, Information Technology Act, 2000 has been enacted and is successful to provide legal acknowledgement to the validation commercial transactions, thus, helping to tackle cybercrimes.

LAWS IN INDIA FOR TACKLING CRIMES IN THE MEDICAL PROFESSION

Cheating: When the health care provider charges money for the services that he with no intention to serve or has the reason to believe that it is not required would attract the punishment of Section 420 of the Indian Penal Code, 1860. The man who has falsely represented performing a service for which he was hired, obtains pay for which he is not entitled.²²

In the case of *Shri Bhagwan Samardha vs State of Andhra Pradesh 1999*²³, the Hon'ble Supreme Court took a positive step by upholding that when somebody represents himself to offer prayers to God for healing the sick and thereby induces a person to him for that and does not get the result, the court will presume it to be a case of fraudulent representation.

²⁰ Anirudh Laskar & Ashish Rukaiyar, 'Satyam Scam: SEBI orders Ramalinga Raju, others to pay Rs. 1,850 cr, Livemint (India, 15 July 2014).

²¹ Reserve Bank of India, 'Master Direction - Know Your Customer (KYC) Direction, 2016' (RBI April 20, 2020) <<https://www.rbi.org.in/CommonPerson/english/scripts/notification.aspx?id=2607>> accessed 11 September 2020.

²² Justice M.L. Singhal, and Sabiha, "Indian Penal Code", Allahabad: Premier Publishing Co., 2003

²³ *Shri Bhagwan Samardha vs State of Andhra Pradesh 1999 (3) SCR 870.*

Forgery: Section 471 of the Indian Penal Code²⁴ would apply when a person fraudulently or dishonestly uses any documents that he believes to be forged. The section does not punish those to whom the forged document is presented; they are presumed innocent in this crime. Quacks intentionally represent false documents to support their claim that they are qualified for medical practice.

Consequences of Quackery: Section 269 of the Indian Penal Code, 1860 punishes any person who unlawfully or by an act of negligence indulges in an act believing that this act is likely to spread disease. Example- a faith healer.

Miscarriage: Section 4 of the Medical Termination of Pregnancy Act, 1971 says that an abortion can be done only in a government approved hospitals. But quacks not being a registered practitioner is not immune to this and attracts section 312 to 318 of the Indian Penal Code, 1860 for unlawful abortions.

Although, registered medical practitioners have general exceptions such as accident or misfortune, consent, and an act done in good faith without the consent.

LAWS IN INDIA FOR TACKLING CRIMES IN THE IT SECTOR

Identity theft - Identity theft involves a person to steal someone else's identity and pretends to be him/her. He has access to all his details, credit card, bank account details, social security number. The imposter can enjoy all the benefits that the other person has. He can also commit other crimes in the name of the person whose identity he stole. The crime is dealt with in the Information Technology Act, 2000. Section 66C of the IT Act punishes the offender either imprisonment up to 3 years, or with fine or with both.²⁵

Forging electronic Records - Section 65 of IT Act,²⁶ tampering with source documents, i.e., concealing, destroying, altering any computer source code when the same is required to be kept, or maintained by law is an offence punishable with three years' imprisonment or two lakh rupees or with both.

²⁴Indian Penal Code, 1860, s 471.

²⁵ SS Rana and Co. Advocates, 'Cyber Theft – A serious Concern in India' (Mondaq 28 February 2019) <<https://www.mondaq.com/india/white-collar-crime-anti-corruption-fraud/785836/cyber-theft-a-serious-concern-in-india>> assessed 07 September 2020.

²⁶ Information Technology Act, 2000, s 65.

Misrepresentation - If anyone attempts to suppress any material fact from the certifying authority for obtaining any license or digital signature certificate it would amount to punishment of a fine up to one lakh rupees or imprisonment up to 3 years.²⁷

CONCLUSION

White Collar crimes are seen to be increasing at an alarming rate and hence has become a global concern. With the invention of new technology and the advancement of science, white-collar crime is easier to perform, and it takes more effort from the police to track them down. And if everyone at a particular business keep on eye, it would detour potential thieves. Although the solution is to become from peoples affected. Citizens of the country should be made aware of these crimes and frauds.

Strict laws and special Tribunals should be constituted with the power to sentence the offender for at least five years, and conviction should result in hefty fines rather than arrest and detention of criminals. Unless we work on detecting these crimes in earlier stages, it is difficult to control this growing menace. If not, White Collar Crime will become cancer to society and destroy our economy.

²⁷ Information Technology Act, 2000, s 71.